

Message Text

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ACTION EUR-25

INFO OCT-01 EA-11 NEA-10 ADP-00 AGR-20 CEA-02 CIAE-00

COME-00 DODE-00 EB-11 FRB-02 H-02 INR-10 INT-08 L-03

LAB-06 NSAE-00 NSC-10 PA-03 RSC-01 AID-20 CIEP-02

SS-15 STR-08 TAR-02 TRSE-00 USIA-12 PRS-01 OMB-01

IO-12 RSR-01 OIC-04 /203 W

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FM USMISSION OECD PARIS

TO SECSTATE WASHDC 9705

INFO AMEMBASSY ANKARA

AMEMBASSY ATHENS

AMEMBASSY BERN

AMEMBASSY BONN

AMEMBASSY CANBERRA

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

AMEMBASSY THE HAGUE

AMEMBASSY HELSINKI

AMEMBASSY LISBON

AMEMBASSY LONDON

AMEMBASSY LUXEMBOURG

AMEMBASSY MADRID

AMEMBASSY OSLO

AMEMBASSY OTTAWA

AMEMBASSY PARIS UNN

AMEMBASSY REYKJAVIK

AMEMBASSY ROME

AMEMBASSY STOCKHOLM

AMEMBASSY TOKYO

AMEMBASSY VIENNA

AMEMBASSY WELLINGTON

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OF EXISTING CONVERTIBLE BONDS IN EVENT THIS LIMIT ON
FOREIGN HOLDINGS HAD ALREADY BEEN REACHED. CONVERSION TO

ADDITIONAL SHARES SHOULD BE LEGAL RIGHT OF BOND HOLDER. IT WAS NOTED THAT MANY BILLIONS OF THE CONVERTIBLE BONDS ARE OUTSTANDING FROM MID- 1960' S. JAPANESE EXPERT AGREED TO PROVIDE IC WITH FURTHER INFORMATION THIS QUESTION. QUESTION ALSO RAISED AS TO EXTENT JAPANESE REGULATIONS WOULD BE LIBERALIZED FOR DIRECT INVESTMENT BY MEANS OF LOANS, SINCE CODE ALSO ENVISIONS DIRECT INVESTMENT BY THIS MEANS. JAPANESE EXPERT INDICATED THIS HAD NOT BEEN CHANGED BY NEW RULES.

4. GERMAN INVOCATION OF ARTICLE 7(B) DEROGATION: IC AGREED TO DRAFT ENTRY AND DECISION (REF B) AFTER INTENSIVE EXAMINATION OF EXTENT TO WHICH NEW REGULATIONS APPLY TO VARIOUS FORMS OF INWARD DIRECT INVESTMENT. INITIAL CONCLUSION, SUBJECT TO CONFIRMATION BY GOG AUTHORITIES, WAS THAT REGULATIONS IN FACT DO NOT APPLY TO MOST FORMS OF INWARD DIRECT INVESTMENT. THAT IS, DIRECT INVESTMENT TRANSACTIONS REMAIN UNRESTRICTED AS LONG AS THEY INVOLVE CREATION OF NEW ENTERPRISES, OR PURCHASE OR EXPANSION OF EXISTING ENTERPRISES, THROUGH ISSUE OF SHARES OR USE OF GERMAN SOURCE BORROWED FUNDS. THUS, FOREIGN PARENT IS FREE TO PLACE FUNDS IN LOCAL AFFILIATE IN EXCHANGE FOR SHARES IN THAT AFFILIATE; LIKEWISE, FOREIGN FIRM COULD PURCHASE LOCAL ONE BY ISSUE OF ITS SECURITIES. RESULT IS THAT NEW GERMAN REGULATIONS EVIDENTLY RESTRICT ONLY DIRECT INVESTMENT FINANCED THROUGH LOANS FROM FOREIGN SOURCES. (NOTE: GERMAN REGULATIONS DO NOT CONSIDER LOANS, E. G., BY A FOREIGN INVESTOR TO ITS LOCAL AFFILIATE, TO BE FORM OF DIRECT INVESTMENT.) IC REVISED ITS REPORT TO INDICATE THAT DIRECT INVESTMENT AUTHORIZATIONS WOULD BE WITHHELD ONLY IN CASES WHERE INVESTMENT WAS ACCOMPANIED BY AN INFLOW OF SPECULATIVE CAPITAL. COMMITTEE ALSO CHANGED PARA 1(C) REF (B) TO REMOVE " IN THE FORM OF EQUITIES." GERMAN EXPERT TENTATIVELY APPROVED THIS CHANGE. HE ALSO INDICATED THAT HIS AUTHORITIES HAD INITIALLY DESIRED TO LODGE BOTH 7(B) AND 7(C) DEROGATIONS. SOME MEMBERS QUESTIONED LOGIC OF LODGING TWO RESERVATIONS WHEN LIMITED OFFICIAL USE
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ONE SEEMED SUFFICIENT. GERMAN RESPONSE WAS THAT GOG WANTED TO HAVE PRECEDENT THAT EITHER 7(B) OR 7(C) DEROGATION COULD BE LODGED IN CASE OF COUNTRY IN SURPLUS POSITION RECEIVING EXCESS CAPITAL INFLOWS. U. S. EXPERT TENTATIVELY SUPPORTED THIS VIEW, POINTING OUT THAT THIS WOULD OFFER SYMMETRICAL TREATMENT UNDER CODE FOR BOTH DEFICIT AND SURPLUS COUNTRIES. IC SEEMED TO GENERALLY ACCEPT IDEA, ALTHOUGH AT REQUEST OF CHAIRMAN, IC DECIDED THAT GERMAN DEROGATION WOULD BE WORDED IN WAY THAT IT WOULD BE EXPLICITLY BASED ON 7(B) AND ONLY IMPLICITLY ON 7(C). IN REVIEWING GERMAN REGULATIONS, SEVERAL MEMBERS POINTED OUT THAT REGS SEEMED TO HAVE CLOSED MAINLY SMALLER

LOOPHOLES IN REGARD TO CAPITAL INFLOWS, WHILE LEAVING BIGGEST ONE (UNCONTROLLED FOREIGN POSITIONS OF DOMESTIC COMMERCIAL BANKS) OPEN. IT WAS NOTED THAT FLOWS DUE TO DIRECT INVESTMENT AND FAMILY LOANS HAD BEEN USED AS MEANS TO GET ROUND VARIOUS OTHER REGULATIONS, AND THAT BONA FIDE FAMILY LOANS WOULD CONTINUE TO BE AUTHORIZED. PRIMARY CRITERIA FOR SUCH AUTHORIZATION EVIDENTLY WILL BE SIZE OF LOAN, SMALL AMOUNTS RECEIVING ALMOST AUTOMATIC APPROVAL. ACTION REQUESTED. DEPT IS REQUESTED TO NOTIFY MISSION OF EXTENT TO WHICH INTERESTED AGENCIES COULD ACCEPT, IMPLICITLY AT THIS STAGE, USE OF ARTICLE 7(C) DEROGATION FOR SURPLUS COUNTRIES.

5. JAPANESE INVOCATION OF ARTICLE 7(B) DEROGATION:

JAPANESE EXPERT INDICATED TO COMMITTEE THAT HIS GOVERNMENT COULD ACCEPT ANALYSIS IN REF (C) AS WELL AS WORDING OF PROPOSED DRAFT ENTRY PARA 1 AND DRAFT DECISION ANNEX II THAT DOC. SECRETARIAT NOTED IT HAD WORKED CLOSELY WITH JAPANESE DELEGATION IN REDRAFTING REF (C) IN LIGHT IC' S EARLIER COMMENTS. MOST EXPERTS EXPRESSED SUPPORT FOR WORDING OF DRAFT ENTRY, FEELING THAT NUANCES OF EARLIER DISCUSSION ON MATTER, SEE REF (E), HAD BEEN USEFULLY INCORPORATED. COMMITTEE THEN APPROVED REF (C) AND RECOMMENDED FORWARDING TO COUNCIL WITH RELATIVELY LITTLE DISCUSSION. SINCE JAPANESE DEL HAD ALREADY INDICATED TO COMMITTEE AT BEGINNING OF DISCUSSION THIS ITEM THAT HIS GOVERNMENT COULD ACCEPT DRAFT ENTRY AS IT STANDS, U. S. EXPERT FELT THAT TO INTRODUCE SUGGESTION PARA 3 REF (F) LIMITED OFFICIAL USE
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WOULD BE COUNTER- PRODUCTIVE. ACTION REQUESTED. MISSION REQUESTS AUTHORIZATION TO ACCEPT WORDING DRAFT ENTRY PARA 1 REF (C) IN PAYMENTS COMMITTEE AND COUNCIL, WITHOUT ADHERING PARA 3 REF (F).

6. FOURTH EXAMINATION OF INSURANCE RESERVATIONS TO INVISIBLES CODE: GIVEN OTHER URGENT PROJECTS WHICH SEEM MORE LIKELY TO BEAR IMMEDIATE FRUIT, IC FELT IT WOULD NOT BE WORTHWHILE TO PURSUE EXAMINATION THIS ITEM, REF (D) , UNTIL EC COUNTRIES HAVE REACHED DECISION ON KIND OF HARMONIZATION PROGRAM THEY WILL UNDERTAKE IN INSURANCE FIELD. MOST OECD COUNTRY MEMBERS OF EC HAVE INDICATED THAT IT WOULD NOT BE POSSIBLE FOR THEM TO MOVE FORWARD UNTIL FINAL DECISIONS HAD BEEN MADE ON MATTER WITHIN EC. SECRETARIAT BELIEVES FIRST EC INSURANCE DIRECTIVE MAY BE ISSUED LATER THIS YEAR.

7. OTHER ITEMS: AGENDA ITEMS 9 AND 10 ARE BEING REPORTED BY SEPARATE CABLE. NEXT MEETING IC SCHEDULED FOR 14-15 JUNE 1973.

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